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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

CIRCUIT BENCH, LUCKNOW

O.A. No. 286/1990

V.K. Lal

Applicant.

versus

Union of India & others

Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. A.B. Gorthi, Adm. Member.

(Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicant has prayed that a direction may be issued to the opposite parties to appoint him immediately on the post of Messenger. The applicant is a Member of Scheduled Caste community. It appears that 3 posts of Messengers fell vacant in the office of the Commandant, Command Hospital, Central Command, Lucknow. The Employment Exchange sponsored the names of certain candidates including that of the applicant for the same. In the selection, the applicant was also selected and his name was placed at No. 3. He was, like others, to undergo medical examination, which he passed successfully. It appears that before appointment two posts were cancelled. The applicant says that the opposite parties are not inclined to appoint him and they are going to make fresh selection. In this connection reliance has been made on the Ministry of Home Affairs (Department of Personnel & Administrative Reforms) O.M. No. 22011/2/19-Estt (D) dated 8.2.1983, reference has been made to para 4 of the same which reads as under:

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"Once a person is declared successful according to the merit list of selected candidates, which is based on the declared number of vacancies, the appointing authority has the responsibility to appoint him even if the number of vacancies undergoes a change, after his name has been included in the list of selected candidates. Thus, where selected candidates are awaiting appointment recruitment should either be postponed till all the selected candidates are accommodated or alternatively intake for the next recruitment reduced by the number of candidates already awaiting appointment and the candidates awaiting appointment should be given appointments first, before starting appointments from a fresh list from a subsequent requirement or examination."

From the above it is clear that the applicant, although his name is included in the selected applicants' list, could be appointed prior to appointment of any person whose name finds place in the subsequent selection. This is precisely what the applicant has prayed for. The opposite parties have not come forward with the case that, ~~the~~ as the posts have been cancelled, his name also goes out of list and he cannot be considered. Accordingly, the applicant is entitled to the relief prayed for and as such a direction ^{is} ~~be~~ issued to the opposite parties to consider the name of the applicant for appointment before any other person is appointed in the subsequent selection in terms of para 4 of the D.M. referred to above. In the circumstances of the case, there is no order as to costs.

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A.M.

[Signature]

V.C.

Shankel

Lucknow Dated: 5.3.91.